



# California Regional Water Quality Control Board

## Los Angeles Region



Linda S. Adams  
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger  
Governor

October 30, 2009

David Farris  
ConocoPhillips Company  
Los Angeles Lubricants Plant  
13707 South Broadway Avenue  
Los Angeles, CA 90061

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Claim No. 7009-0820-0001-6811-0807

RE: RESPONSE TO REQUEST FOR ALLEGED VIOLATION REVIEW - CONOCOPHILLIPS COMPANY, LOS ANGELES LUBRICANTS PLANT, 13707 SOUTH BROADWAY AVENUE, LOS ANGELES, CA (ORDER NOS. 97-082 AND R4-2004-0173, NPDES PERMIT NO. CA0059846, CINO: 6773)

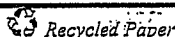
Dear Mr. Farris:

Thank you for meeting with Regional Board staff on June 25, 2009 and your letter dated July 25, 2009 and August 7, 2009 from your representative, Attorney Mr. John J. Allen of Allen Matkins Leck Gamble Mallory and Natisis LLP, responding to the May 19, 2009 *Response to Request for Alleged Violation* letter for the October 23, 2008 Settlement Offer No. R4-2008-0097-M, which assessed mandatory minimum penalties (MMPs) for violations of effluent limitations. This letter addresses your comments in this regard.

### Issue 1:

The Permittee asserts that "Eight of the 58 MMP violations identified on Exhibit A to the Offer were alleged to have occurred between January 2000 and November 2003 under a prior permit (issued under Order No. 97-082) and were for exceeding daily maximum mass-based limits for oil & grease ("O&G") at the same time COP's predecessor had reported exceeding concentration based O&G limits;<sup>1</sup> The mass amounts of O&G that appear on Exhibit A were imputed by RWQCB based on the assumption that the COP facility was discharging the maximum 60,000 gallon per day (gpd) figure that it had identified in its application or at the rate of total rainfall run off that the company reported using rain gauges or local weather station readings in the absence of any calibrated flow meter; During the relevant time period, COP did not have nor was it apparently required to have a flow meter for discharges from the outfall where the numeric effluent limits were imposed, nor did its permit apparently include a limit on maximum flow as aside from referencing the dischargers estimate of "maximum daily rainfall runoff and flush waste water"; In lieu of flow monitoring or a specific limit of flow (aside from the estimated 60,000 GPD figure), COP was typically either not reporting flow on its quarterly discharge monitoring reports or simply estimating total run off volume from the site as a function of total measured rainfall from on-site gauges or other nearby rain fall gauging stations; RWQCB in its Fact Sheet for the current permit (Order No. R4-2004-0173) dated October 22, 2004, revised October 13, 2004) essentially acknowledges the absence of flow monitoring by noting that mass-based daily discharges of O&G and phenols were "NOT reported" under the prior permit. COP respectfully submits that, in the absence of COP reported flow volumes during this period and other means for measuring daily flow under the prior

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

October 30, 2009

*permit and its monitoring and reporting program, it is inappropriate to impute flow and use it to calculate mass-based effluent limit violations."*

Staff Response:

Upon further review of the Permittee's 1<sup>st</sup> Quarter 2000, 4<sup>th</sup> Quarter 2000, 1<sup>st</sup> Quarter 2001, and 4<sup>th</sup> Quarter 2001 self-monitoring reports (SMR) and based on your explanation referenced above, staff determined a total of ten (10) alleged daily maximum mass-based oil and grease (O&G) effluent limit violations cited on January 25, 2000, February 11, 2000, October 11, 2000, January 26, 2001, February 12, 2001, February 23, 2001, November 29, 2001, December 16, 2002, November 3, 2003 and November 12, 2003 listed in the Settlement Offer No. R4-2008-0097-M NOV were incorrectly calculated using the maximum possible daily discharge identified in the permit application. Therefore, you are hereby notified that the ten (10) effluent limit violations for O&G on January 25, 2000, February 11, 2000, October 11, 2000, January 26, 2001, February 12, 2001, February 23, 2001, November 29, 2001, December 16, 2002, November 3, 2003 and November 12, 2003 cited in the Settlement Offer No. R4-2008-0097-M are hereby rescinded.

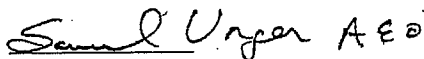
You are hereby notified that, based on your July 25, 2009 and August 7, 2009 submittal to the Regional Board, the ten (10) O&G mass-based effluent limit violations during the period January 25, 2000 through November 12, 2003 are hereby rescinded. However, the effluent limit violations noted in the October 23, 2008 Settlement Offer No. R4-2008-0097-M Notice of Violation (NOV) remain as noted in the amended Exhibit "A" - NOV.

Since the Permittee requested a review of these violations, the Regional Board has established new deadlines. If you intend to participate in the Expedited Payment Program, you must sign and return the previously sent Acceptance of Conditional Resolution and Waiver of Right to Hearing form by **November 30, 2009**. By signing the Acceptance and Waiver, ConocoPhillips Company agrees to pay the penalty of \$150,000 as indicated on amended Exhibit "A" - Notice of Violation and waives the right to a hearing.

If you do not elect to sign the Acceptance and Waiver, you will be contacted regarding formal enforcement action that will be initiated with regard to the contested violations.

If you have questions regarding this matter, please contact Ms. Pansy Yuen at (213) 620-6367 or Mr. Hugh Marley at (213) 620-6375.

Sincerely,

 A E O

Samuel Unger, P.E.  
Assistant Executive Officer

Enclosures:

Amended Exhibit "A" - Notice of Violation  
Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order

cc: Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board  
Mr. John J. Allen, Allen Matkins Leck Gamble Mallory & Natsis LLP (via facsimile only)

Settlement Offer No. R4-2008-0097-M  
CI No. 6773, NPDES Permit No. CA0059846

**ACCEPTANCE OF CONDITIONAL RESOLUTION  
AND WAIVER OF RIGHT TO HEARING; (proposed) ORDER**

ConocoPhillips Company  
Settlement Offer No. R4-2008-0097-M  
NPDES Permit No. CA0059846

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), ConocoPhillips Company (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board to dispute the allegations of violations described in the Notice of Violation (NOV), which is attached hereto as Exhibit "A" and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Regional Board to assert jurisdiction over the alleged violations through its Executive Officer. The Permittee agrees to pay the penalties required by California Water Code section 13385, in the sum of \$150,000 (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV. The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in the NOV and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NOV.

Upon execution by the Permittee, the completed Acceptance and Waiver shall be returned to:

Pansy Yuen, Enforcement Unit  
Expedited Payment Program  
Regional Water Quality Control Board, Los Angeles Region  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, California 90013

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the Regional Board Executive Officer, will be published as required by law for public comment.

If no comments are received within the notice period that cause the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Acceptance and Waiver.

Settlement Offer No. R4-2008-0097-M  
CI No. 6773, NPDES Permit No. CA0059846

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee further understands that once the Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Furthermore, in accordance with California Water Code section 13385.1(b)(1), funds collected pursuant to section 13385.1 for failure to timely file a report shall be deposited in the Waste Discharge Permit Fund. Accordingly, the \$150,000 liability shall be paid by a cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account". The payment must be submitted to the Regional Board no later than ten (10) calendar days after the date the Permittee receives written notice that the Regional Board Executive Officer has executed this Acceptance and Waiver.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

Tom Liberti, General Manager Lubricants  
Mr. David Ferris, Plant Manager  
ConocoPhillips Company

By:

(Signed Name)

J. T. LIBERTI

(Printed or typed name)

(Date)

11/13/09

(Title)

GM LUBRICANTS

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: \_\_\_\_\_

By: \_\_\_\_\_

Tracy J. Egoscue  
Executive Officer

**EXHIBIT "A" - NOTICE OF VIOLATION**  
Amended Effluent Limit Violations

Date	Monitoring Period	Discharge Serial No.	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
1/25/2000	1st Quarter 2000	NA	Daily Maximum	Oil & Grease	26	15	mg/L	1	73%	Serious	(h)1	\$3,000
2/11/2000	1st Quarter 2000	NA	Daily Maximum	Oil & Grease	17	15	mg/L	1	13%	Chronic	(i)1	\$0
10/11/2000	4th Quarter 2000	NA	Daily Maximum	Oil & Grease	18	15	mg/L	1	20%	Chronic	(i)1	\$0
1/26/2001	1st Quarter 2001	NA	Daily Maximum	Oil & Grease	17	15	mg/L	1	13%	Chronic	(i)1	\$0
2/12/2001	1st Quarter 2001	NA	Daily Maximum	Oil & Grease	21	15	mg/L	1	40%	Serious	(h)1	\$3,000
2/23/2001	1st Quarter 2001	NA	Daily Maximum	Oil & Grease	26	15	mg/L	1	73%	Serious	(h)1	\$3,000
11/29/2001	4th Quarter 2001	NA	Daily Maximum	Oil & Grease	18	15	mg/L	1	20%	Chronic	(i)1	\$0
12/16/2002	4th Quarter 2002	NA	Daily Maximum	Oil & Grease	25	15	mg/L	1	67%	Serious	(h)1	\$3,000
11/3/2003	4th Quarter 2003	NA	Daily Maximum	Oil & Grease	59	15	mg/L	1	293%	Serious	(h)1	\$3,000
11/12/2003	4th Quarter 2003	NA	Daily Maximum	Oil & Grease	16	15	mg/L	1	7%	Chronic	(i)1	\$0
9/1/2005	3rd Quarter 2005	001	Daily Maximum	Settleable Solids	0.5	0.3	mg/L	NA	67%	Chronic	(i)1	\$0
9/21/2005	3rd Quarter 2005	001	Daily Maximum	TPH	7,140	100	ug/L	1	7040%	Serious	(h)1	\$3,000
9/21/2005	3rd Quarter 2005	001	Daily Maximum	Zinc	2,500	960	ug/L	2	160%	Serious	(h)1	\$3,000
10/17/2005	4th Quarter 2005	001	Monthly Average	Oil & Grease	13	10	mg/L	1	30%	Chronic	(i)1	\$3,000
10/17/2005	4th Quarter 2005	001	Daily Maximum	TPH	8,950	100	ug/L	1	8850%	Serious	(h)1	\$3,000
11/2/2006	1st Quarter 2006	001	Instantaneous	pH	6.18	6.5-8.5	pH units	NA	NA	Chronic	(i)1	\$3,000
2/19/2006	1st Quarter 2006	001	Daily Maximum	TPH	4,300	100	ug/L	1	4200%	Serious	(h)1	\$3,000
2/19/2006	1st Quarter 2006	001	Monthly Average	BOD	23	20	mg/L	1	15%	Chronic	(i)1	\$3,000
2/19/2006	1st Quarter 2006	001	Monthly Average	Oil & Grease	12	10	mg/L	1	20%	Chronic	(i)1	\$3,000
3/28/2006	1st Quarter 2006	001	Daily Maximum	TPH	4,500	100	ug/L	1	4400%	Serious	(h)1	\$3,000
3/31/2006	1st Quarter 2006	001	Monthly Average	Oil & Grease	13.5	10	mg/L	1	35%	Chronic	(i)1	\$3,000
4/1/2006	2nd Quarter 2006	001	Daily Maximum	Oil & Grease	30	15	mg/L	1	100%	Serious	(h)1	\$3,000
4/1/2006	2nd Quarter 2006	001	Daily Maximum	TSS	130	75	mg/L	1	73%	Serious	(h)1	\$3,000
4/1/2006	2nd Quarter 2006	001	Daily Maximum	TPH	14,000	100	ug/L	1	13900%	Serious	(h)1	\$3,000
4/4/2006	2nd Quarter 2006	001	Daily Maximum	Oil & Grease	19	15	mg/L	1	27%	Chronic	(i)1	\$3,000
4/4/2006	2nd Quarter 2006	001	Daily Maximum	TPH	13,000	100	ug/L	1	12900%	Serious	(h)1	\$3,000
4/14/2006	2nd Quarter 2006	001	Daily Maximum	TPH	2,900	100	ug/L	1	2800%	Serious	(h)1	\$3,000
4/30/2006	2nd Quarter 2006	001	Monthly Average	Oil & Grease	18	10	mg/L	1	80%	Serious	(h)1	\$3,000
5/22/2006	2nd Quarter 2006	001	Daily Maximum	Oil & Grease	20	15	mg/L	1	33%	Chronic	(i)1	\$3,000
5/22/2006	2nd Quarter 2006	001	Daily Maximum	TPH	12,000	100	ug/L	1	11900%	Serious	(h)1	\$3,000
5/30/2006	2nd Quarter 2006	001	Monthly Average	Oil & Grease	20	10	mg/L	1	100%	Serious	(h)1	\$3,000
11/27/2006	4th Quarter 2006	001	Daily Maximum	Oil & Grease	16	15	mg/L	1	7%	Chronic	(i)1	\$0
11/27/2006	4th Quarter 2006	001	Daily Maximum	BOD	38	30	mg/L	1	27%	Chronic	(i)1	\$0
11/27/2006	4th Quarter 2006	001	Monthly Average	Oil & Grease	16	10	mg/L	1	60%	Serious	(h)1	\$3,000

**EXHIBIT "A" - NOTICE OF VIOLATION**  
Amended Effluent Limit Violations

Conoco Phillips Company  
CI No. 6773

Date	Monitoring Period	Discharge Serial No.	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceedance	Serious/Chronic	Water Code Section 13385	Penalty
11/27/2006	4th Quarter 2006	001	Monthly Average	BOD	38	20	mg/L	1	90%	Serious	(b)1	\$3,000
11/27/2006	4th Quarter 2006	001	Daily Maximum	TPH	15,400	100	ug/L	1	15300%	Serious	(b)1	\$3,000
12/10/2006	4th Quarter 2006	001	Daily Maximum	Oil & Grease	19	15	mg/L	1	27%	Chronic	(b)1	\$3,000
12/10/2006	4th Quarter 2006	001	Daily Maximum	Sulfide	0.4	0.1	mg/L	1	300%	Serious	(b)1	\$3,000
12/10/2006	4th Quarter 2006	001	Daily Maximum	Zinc	2,500	960	ug/L	2	160%	Serious	(b)1	\$3,000
12/10/2006	4th Quarter 2006	001	Daily Maximum	TPH	37,600	100	ug/L	1	37500%	Serious	(b)1	\$3,000
12/27/2006	4th Quarter 2006	001	Daily Maximum	Sulfide	0.3	0.1	mg/L	1	200%	Serious	(b)1	\$3,000
12/27/2006	4th Quarter 2006	001	Daily Maximum	TPH	6,100	100	ug/L	1	6000%	Serious	(b)1	\$3,000
12/27/2006	4th Quarter 2006	001	Daily Maximum	Turbidity	84	75	mg/L	NA	12%	Chronic	(b)1	\$3,000
12/31/2006	4th Quarter 2006	001	Monthly Average	Oil & Grease	13	10	mg/L	1	30%	Chronic	(b)1	\$3,000
12/31/2006	4th Quarter 2006	001	Monthly Average	Turbidity	74	50	mg/L	NA	48%	Chronic	(b)1	\$3,000
2/11/2007	1st Quarter 2007	001	Daily Maximum	TPH	5,300	100	ug/L	1	5200%	Serious	(b)1	\$3,000
4/20/2007	2nd Quarter 2007	001	Monthly Average	Oil & Grease	13	10	mg/L	1	30%	Chronic	(b)1	\$3,000
4/20/2007	2nd Quarter 2007	001	Monthly Average	TSS	65	50	mg/L	1	30%	Chronic	(b)1	\$3,000
4/20/2007	2nd Quarter 2007	001	Daily Maximum	TPH	6,500	100	ug/L	1	6400%	Serious	(b)1	\$3,000
4/20/2007	2nd Quarter 2007	001	Monthly Average	Turbidity	60	50	mg/L	NA	20%	Chronic	(b)1	\$3,000
9/22/2007	3rd Quarter 2007	001	Daily Maximum	TPH	41,000	100	ug/L	1	40900%	Serious	(b)1	\$3,000
9/22/2007	3rd Quarter 2007	001	Daily Maximum	Oil & Grease	48	15	mg/L	1	220%	Serious	(b)1	\$3,000
9/22/2007	3rd Quarter 2007	001	Monthly Average	Oil & Grease	48	10	mg/L	1	380%	Serious	(b)1	\$3,000
9/22/2007	3rd Quarter 2007	001	Daily Maximum	Zinc	1,000	960	ug/L	2	4%	Chronic	(b)1	\$3,000
9/22/2007	3rd Quarter 2007	001	Monthly Average	Turbidity	74	50	mg/L	NA	48%	Chronic	(b)1	\$3,000
11/30/2007	4th Quarter 2007	001	Monthly Average	TSS	58	50	mg/L	1	16%	Chronic	(b)1	\$3,000
11/30/2007	4th Quarter 2007	001	Daily Maximum	TPH	6,100	100	ug/L	1	6000%	Serious	(b)1	\$3,000
12/7/2007	4th Quarter 2007	001	Daily Maximum	TPH	3,500	100	ug/L	1	3400%	Serious	(b)1	\$3,000
											<b>Total</b>	<b>\$150,000</b>